



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Memorandum

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TO: Joint Budget Committee

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SUBJECT: Tax Credit Triggers for Tax Year 2026

Summary

This memorandum discusses triggers in state law that determine the availability of the family affordability tax credit (FATC) and expanded earned income tax credit (EITC) beginning for tax year 2026, and whether and how the credits may become available under different possible revenue forecasts.

Triggered Tax Credits

Tax credits reduce state revenue. Some state tax credits include “triggers,” such that they become available or unavailable under certain economic or fiscal circumstances. In addition to the FATC and EITC, discussed in detail below, the following credits depend on triggers in place under current law:

- tax credits related to decarbonization in [HB 23-1272](#);
- the workforce shortage tax credit in [HB 24-1365](#); and
- the gross conservation easement tax credit, most recently amended in [SB 24-126](#).

Family Affordability Credit and Expanded Earned Income Credit

In 2024, the General Assembly created the FATC in [HB 24-1311](#) and expanded the state EITC in [HB 24-1134](#). Both are refundable credits that provide benefits to lower-income Colorado taxpayers. The EITC benefits all low-income households with earned income, while the FATC specifically benefits low- to moderate-income households with children up to age 16. Together, the credits are estimated to reduce state revenue by \$821 million in FY 2024-25. The estimate is



highly sensitive to expectations for utilization and the reduction may be greater if more taxpayers claim the credit than expected. The revenue impact is expected to grow with utilization in future years, to \$942 million in FY 2025-26 and \$996 million in FY 2026-27.

Availability for 2024 and 2025

For tax year 2024, both the FATC and the expanded EITC were unconditionally available and not subject to any trigger. Taxpayers were able to claim the credits on state income tax returns filed for tax year 2024 during the spring 2025 filing season. Availability of the tax credits for tax year 2025 was determined based on the December 2024 OSPB forecast using a one-time trigger that applied for tax year 2025 only. Based on that trigger, both of the credits are available at their maximum level for tax year 2025, and may be claimed on state income tax returns filed for tax year 2025 during the spring 2026 filing season.

Availability for 2026 and Beyond

For tax year 2026 through tax year 2033, the FATC and the expanded EITC will only be available if triggered.¹ For each tax year, the availability and amounts of both credits depends on the December forecast immediately before the tax year begins, prepared by the agency whose forecast was selected for budget balancing during the previous legislative session. The trigger measures the compound annual growth rate in state revenue subject to the TABOR limit between FY 2024-25 (the base year) and the fiscal year that begins during the tax year. For both years, the trigger requires that both credits (the FATC and expanded EITC) be “excluded” when conducting the calculation, meaning that the amount by which the credits reduce revenue is ignored for the purpose of determining whether the credits are available.

For example, for tax year 2026, the availability of the FATC and expanded EITC will depend on the December 2025 OSPB forecast. Specifically, it depends on the forecasted compound annual growth rate in state revenue subject to TABOR from FY 2024-25 to FY 2026-27, with the revenue loss attributable to the credits excluded from both years.

If the compound annual growth rate is projected to be less than 3.0 percent, both credits are unavailable for the tax year. If the compound annual growth rate is projected to be more than 3.75 percent for the tax year, both credits are available at their maximum level. If the compound

¹ See Section 39-22-130 (2) and (6), C.R.S., for the FATC; and Section 39-22-123.5 (3.5), C.R.S., for the expanded EITC.



annual growth rate falls between 3.0 percent and 3.75 percent, the credits are available at a reduced level.

Issue for Consideration

The trigger may not protect the General Fund as expected. Staff interprets the purpose of the trigger to be to reduce or turn off the tax credits when they would constrain the amount of revenue available for the General Fund budget. However, the trigger only works as intended if both:

- 3.75 percent is an accurate measurement of the amount by which revenue available for the General Fund budget would grow annually from the FY 2024-25 level before the credit applies; and
- actual revenue collections for the FY 2024-25 base year do not themselves constrain the General Fund.

The March 2025 LCS forecast expects revenue in FY 2024-25 to fall short of what is needed to fully fund FY 2025-26 homestead exemption reimbursements to counties. Further, preliminary revenue data for March 2025 suggest that revenue could come in below the March 2025 forecasts from both LCS and OSPB. In that were to happen, the trigger would preserve a FY 2024-25 General Fund budget environment where revenue, not the Referendum C cap, constrains the General Fund.

Scenarios

This section describes impacts on the General Fund budget under different scenarios. These are summarized in Table 1 below.



Table 1
General Fund Budget with Tax Credit Triggers under Different Growth Scenarios
Dollars in Millions

Scenario Name	Scenario Description	Tax Credit Trigger for TY 2026	Is revenue sufficient to fund 2026 homestead reimbursements?	Is revenue sufficient to fund 2027 homestead reimbursements?
Scenario A	OSPB Forecast	Maximum	Yes	Yes
Scenario B	LCS Forecast	Maximum	Yes	Yes
Scenario C	OSPB FY 2024-25 Forecast with Slower Growth	Maximum	Yes	Yes
Scenario D	LCS FY 2024-25 Forecast with Slower Growth	Maximum	No	Yes
Scenario E	Low FY 2024-25 Revenue with LCS Forecast Growth	Maximum	Yes	Yes
Scenario F	Low FY 2024-25 Revenue with Slower Growth	Maximum	No	No

Published Forecasts — Scenarios A and B

Under the March 2025 forecasts from OSPB (Scenario A) and LCS (Scenario B), the credits are expected to be available at their maximum level for tax year 2026. After funding the credits, state revenue is expected to grow by between 4.7 percent and 6.2 percent in FY 2025-26 and FY 2026-27, under the two forecasts. State revenue is expected to exceed the Referendum C cap by between \$600 million and \$650 million in FY 2025-26, and between \$775 million and \$950 million in FY 2026-27, under the two forecasts. These projected amounts are enough to fully fund the General Fund obligations for reimbursements for property tax exemptions.

Alternative Scenarios for Future Years

Revenue collections for FY 2024-25 make up a base year amount for the tax credit trigger calculation. If revenue grows more slowly than expected in the published LCS and OSPB forecasts, or if inflation is higher, General Fund budget circumstances could differ from the forecast.



Scenario C – OSPB Forecast with Slower Growth

If FY 2024-25 revenue comes in as expected under the March 2025 OSPB forecast used for budget balancing, then revenue could grow by 3.75 percent in FY 2025-26 and FY 2026-27, and the maximum tax credit amounts would be available in tax year 2026. In this scenario, revenue would exceed the Referendum C cap by enough to fully fund the General Fund obligations for reimbursements for property tax exemptions.

Scenario D – LCS Forecast with Slower Growth

If FY 2024-25 revenue comes in as expected under the March 2025 LCS forecast, then revenue could grow by 3.75 percent in FY 2025-26 and FY 2026-27, and the maximum tax credit amounts would be available in tax year 2026. In this scenario, revenue would exceed the Referendum C cap by just \$143 million in FY 2025-26, less than the amount required to fully fund the General Fund obligations for reimbursements for 2026 property tax exemptions.

If revenue grows by less than 3.75 percent on a compound annual basis, then tax credit amounts will be reduced as required under the current law triggers.

Alternative Scenarios for FY 2024-25

If revenue is lower than expected for FY 2024-25, the base year amount used for the tax credit triggers will be lower than expected, and the credits will become available at lower levels of future revenue.

Scenario E – Lower FY 2024-25 Revenue with Forecast Growth

For example, if FY 2024-25 revenue is \$340 million below the March 2025 LCS forecast, and then grows at the rates expected in the LCS forecast, the maximum tax credit amounts would be available in tax year 2026. In this scenario, revenue would just exceed the Referendum C cap by enough to fully fund the General Fund obligations for reimbursements for property tax exemptions.

Scenario F – Lower FY 2024-25 Revenue with Slower Growth

If FY 2024-25 revenue is \$340 million below the March 2025 LCS forecast, and then grows at 3.75 percent annually in FY 2025-26 and FY 2026-27, the maximum tax credit amounts would be available in tax year 2026. In this scenario, revenue would fall below the Referendum C cap by \$210 million in FY 2025-26 and \$129 million in FY 2026-27, with no amount refunded via reimbursements for property tax exemptions.